

STATE OF MICHIGAN
COURT OF APPEALS

STROH BREWERY COMPANY,

Plaintiff-Appellee/Cross-Appellant,

v

R. ALAN MURDOCH,

Defendant-Appellant/Cross-Appellee.

UNPUBLISHED

September 11, 1998

No. 201417

Wayne Circuit Court

LC No. 95-502338 CK

Before: Talbot, P.J., and Fitzgerald and Young, JJ.

PER CURIAM.

Defendant, R. Alan Murdoch, appeals as of right a final judgment entered in favor of plaintiff in the amount of \$156,090.06. Plaintiff, Stroh Brewery Company, cross-appeals the order denying its motion for mediation sanctions. We affirm.

In 1971, defendant R. Alan Murdoch commenced employment with the Schlitz Brewing Company (Schlitz) as its International Treasurer with respect to Schlitz' investment in a Spanish brewing conglomerate known as La Cruz del Campo (Cruzcampo). Murdoch's duties included, inter alia, sitting on the Cruzcampo Board of Directors and monitoring and reporting to Schlitz on a period basis regarding the activities of Cruzcampo. Murdoch was paid a salary to sit on the Cruzcampo Board of Directors.

In 1973, Cruzcampo began to pay director fees to members of the Board of Directors, including Murdoch. The payments were made in Spanish pesetas. On at least one occasion, Murdoch accounted to Schlitz for the director fees he received by sending Schlitz a check for an amount of United States dollars that equaled the director fees he received. Murdoch subsequently advised Schlitz that this practice was unwise due to Spanish legislation that severely restricted the transfer of Spanish pesetas beyond Spain's borders. As a result, Schlitz and Murdoch reached a mutual agreement whereby Murdoch would receive the director fees, retain the fees for the benefit of Schlitz, offset his legitimate business expenses from the director fees, and provide Schlitz documentation of the director fees he received and the business expenses for which he sought reimbursement approval.

In 1982, Stroh acquired Schlitz and Schlitz' ownership interest in Cruzcampo. Murdoch became a Stroh employee and an employment agreement was reached between the parties. Murdoch and Stroh mutually agreed to continue the agreement that Murdoch and Schlitz had with respect to the director fees. Murdoch submitted to Stroh on a periodic basis documentation of the director fees he received and documentation of business expenses for which he sought approval.

In December 1982 Murdoch relocated from Spain to his prior home in England. On December 9, 1986, Stroh and Murdoch entered in an "Office Facility Agreement" (Agreement) whereby Stroh would incur the cost of constructing an office facility on Murdoch's property and the total cost would be amortized over a defined period of time. The amortization period is defined in paragraph five of the agreement and began on the date that Murdoch occupied the office facility and ends on July 19, 1996. Murdoch occupied the office facility on December 1, 1987, thus establishing an amortization period of 103 months.

In July 1990 Murdoch received payment of director fees valued at approximately \$600,000. Murdoch did not report his receipt of the 1990 fees to Stroh. In October 1990 Stroh discovered that Murdoch had received the 1990 funds and demanded that Murdoch transfer the 1990 fees to Stroh in Detroit. Murdoch transferred the fees, plus interest, in the amount of \$602,866.94. Stroh then requested Murdoch to produce complete documentation for all director fees received from Cruzcampo.

On October 21, 1990, Murdoch submitted documentation for the director fees he received on behalf of Stroh. Vincent Abatemarco, Stroh's treasurer, conducted an audit of the fees and expenses. Stroh concluded that Murdoch had received and retained \$1,193,413 in director fees (which does not include the 1990 fees that were returned to Stroh). During 1991, Murdoch submitted \$156,440 in travel expense claims and more than \$1.3 million in other expense claims dating as far back as 1978. Stroh conditionally approved the travel expense claims and used this amount to offset a portion of the director fees that Murdoch retained and owed Stroh. Stroh then conducted an analysis of the other expense claims and conditionally approved \$644,803, which was offset from the director fees that Murdoch retained. Stroh denied the balance of the other expenses submitted by Murdoch.

In 1991, Stroh sold its interest in Cruzcampo and Murdoch's services were no longer needed. Murdoch's active employment with Stroh terminated on August 31, 1991, his inactive status terminated on March 31, 1992, and he was placed on retired status as of April 1, 1992.

In a prior action, Murdoch filed an eleven-count complaint against Stroh. Stroh filed a counter-complaint. Murdoch sought, among other things, a declaratory judgment regarding ownership of the director fees. Murdoch also sought reimbursement of \$457,237 in expenses disallowed by Stroh. The trial court ruled that, pursuant to Murdoch's employment understanding with Stroh, Stroh was the owner of the director fees. The court also ruled that, pursuant to Murdoch's employment understanding with Stroh, Stroh had sole discretion to determine what constituted a reimbursable business expense and what did not. The trial court's holdings in this regard were affirmed by this Court. *Murdoch v Stroh Brewery Co*, unpublished opinion per curiam of the Court of Appeals, Docket No. 182840 (issued February 21, 1997).

The trial court also dismissed with prejudice Count VIII of Murdoch's complaint, with the exception of \$156,444 in travel expenses. The trial court denied Stroh's motion for summary disposition of Count III of Murdoch's complaint, but noted that Stroh did not contest Murdoch's entitlement to an incentive bonus of \$152,006 and an incentive bonus of \$93,000. The trial then granted Stroh's motion for leave to file an amended cross-complaint, but noted that, by agreement of the parties for procedural ease, Stroh's pending claims were dismissed without prejudice and Stroh was to simultaneously file a new complaint in a new civil action regarding the Office Facility Agreement and any claims Stroh had against Murdoch.

Stroh then filed the present action against Murdoch. In Count I of the first amended complaint, Stroh alleged breach of contract with regard to the Office Facility Agreement. In Count II, Stroh sought an accounting of the director fees received by Murdoch and the expenses claimed by Murdoch. In Count III, Stroh alleged that it was entitled to a constructive trust, and in Count IV alleged that Murdoch would be unjustly enriched if the court did not enter a judgment in favor of Stroh.

The trial court granted summary disposition of Count I of Stroh's complaint and awarded Stroh \$89,068.36, plus statutory interest in the amount of \$18,179.76.

A bench trial was held on Stroh's claims for an accounting and for a constructive trust.¹ Following proofs, Stroh ultimately sought \$42,181.75 in excess director fees. The trial court concluded, as it did in the prior action, that Stroh owned the director fees and that Stroh had the right to exercise its business judgment in determining allowable business expenses and determining whether the claimed expenses were supported by adequate documentation. The court concluded that Murdoch did not establish bad faith on the part of Stroh with regard to the expenses claimed and that Stroh was entitled to a judgment with regard to excess director fees in the amount of \$42,181.75, plus statutory interest in the amount of \$6,660.19. A final judgment in the amount of \$156,090.06 was entered in favor of Stroh.

I

Initially, Murdoch suggests the trial court erred in considering documentary evidence in deciding Stroh's motion for summary disposition with regard to the breach of contract claim involving the Office Facility Agreement. Although Stroh labeled their motion for summary disposition as a motion under MCR 2.116(C)(8), it is clear from the language of the motion, the attachments to the motion, the arguments at the hearing, and the trial court's findings that the motion was mislabeled and was actually brought pursuant to MCR 2.116(C)(10). Thus, in deciding the motion the trial court properly relied on the documentary evidence submitted by Stroh.

Murdoch argues that the agreement was unenforceable due to a lack of meeting of the minds and frustration of the purpose of the agreement. His arguments are based on the premise that neither party contemplated that Stroh would sell its interest in Cruzcampo and, as a result, terminate Murdoch's employment before the cost of the building was fully amortized.

If a contract's language is clear, its construction is a question of law for the court. *Hafner v DAIIE*, 176 Mich App 151, 156; 438 NW2d 891 (1989). When presented with a dispute, a court must determine what the parties' agreement is and enforce it. *Whitaker v Citizens Ins Co*, 190 Mich App 436, 439; 476 NW2d 161 (1991). Contractual language is given its ordinary and plain meaning. *G & A, Inc v Nahra*, 204 Mich App 329, 330-331; 514 NW2d 255 (1994).

Paragraph 6 of The Office Facility Agreement stated in pertinent part that:

If at anytime during the Amortization period (i) Murdoch ceases to be an employee of Stroh *for any reason except his death*, . . . Murdoch shall upon the occurrence of any such event pay to Stroh in case an amount (the "Unamortized Cost") equal to the total cost of the Building less the "Monthly Adjustment." For purposes of this Agreement, the "Monthly Adjustment" shall mean an amount equal to the total final cost of the Building paid by Stroh divided by the number of months between the Occupation Date and July 19, 1996 times the number of months which have passed from the Occupation Date to the date of the event giving rise to Murdoch's obligation to pay. [Emphasis added.]

The language clearly expresses the parties' intent that Murdoch ceased to be an employee of Stroh for any reason other than death, he became liable for the unamortized cost of the building. Thus, the interpretation of the contract was a question of law for the court to decide. *Skotac v Vic Tanny, Inc*, 203 Mich App 616, 619; 513 NW2d 428 (1994).

Murdoch contends that the language does not extend to Stroh's termination of Murdoch's employment because neither party anticipated that Stroh would sell its interest in Cruzcampo and as a consequence eliminate Murdoch's position. He argues that the doctrines of mutual mistake and frustration of purpose prevent enforcement of the agreement. However, neither doctrine applies under the facts of this case.

First, mutual mistake as a doctrine is applicable only if the parties are mistaken as to a vital existing fact at the time contract is formed. *Contracts*, Calamari and Perillo, 3rd ed., § 13-20, p 573. This doctrine clearly does not apply. Second, Stroh's termination of Murdoch's employment did not frustrate the purpose of the agreement. The purpose of the agreement was to establish the parties' rights, responsibilities, and obligations with respect to the building that was being constructed on Murdoch's property. The agreement was not a contract of employment, nor did the agreement contemplate Murdoch's continued employment until the amortization period concluded. Indeed, the agreement specifically states that "Nothing in this Agreement shall constitute or be deemed as an employment agreement between Stroh and Murdoch," and specifically details the extent of Murdoch's liability in the event of termination of Murdoch's employment for *any* reason other than death.

Murdoch suggests that summary disposition was improperly granted because there is a question of fact regarding the amount of damages. Murdoch contends that he was only responsible for the unamortized cost of the *building itself*, and not the entire cost of the project. The agreement clearly uses the term "building" as a synonym for "office facility." The agreement provides that Murdoch will

be liable to Stroh for an amount equal to the *total* cost of the building less the monthly adjustment. Evidence was presented regarding the total cost of the building. Thus, the trial court properly determined damages as a matter of law.

II

Murdoch next contends that the trial court erred by finding that Stroh had discretion to determine which expenses submitted by Murdoch were subject to reimbursement. We disagree. The trial court's finding is consistent with the court's ruling in the prior action between the parties. In that action, Murdoch sought reimbursement for \$457,327 for expenses disallowed by Stroh, and the trial court granted summary disposition in favor of Stroh. This Court, affirming the trial court's grant of summary disposition, stated:

We agree with the trial court that had there been evidence that reasonably implied an agreement that plaintiff would be reimbursed for all reasonable business expenses, then there would arguably be factual issues for a trier of fact to decide. However, the proofs reasonably suggest only that Stroh had the right to exercise its business judgment in determining allowable business expenses and determining whether the claimed expenses were supported by adequate documentation.

Likewise, in the present case the proofs indicate that Stroh had the right to exercise its business judgment in determining allowable business expenses. Indeed, in his brief on appeal, Murdoch cites the business judgment rule, but argues that corporations must exercise their business judgment in good faith. This is precisely what the trial court held. The proofs presented at trial do not support a finding that Stroh acted in bad faith in determining allowable business expenses.

Murdoch also claims that the trial court erred by finding that Murdoch had the burden of proof with regard to business expenses incurred after 1990. However, Murdoch apparently failed to offer any documentary proof to support the expenses. Consequently, the trial court did not err by failing to offset the undocumented expenses.

III

Murdoch asserts that Stroh's claim for director fees received by Murdoch before 1989 was barred by the statute of limitations. However, the statute of limitations will not be applied in equity to defeat a suit for accounting where it appears that fiduciary relations existed between the parties. *Harper v Corcoran*, 166 Mich 474; 132 NW 106 (1911); *Prine v Hatfield*, 5 Mich App 57, 62; 145 NW2d 809 (1966); see also *Schmude Oil v Omar Operating Co*, 184 Mich App 574, 583; 458 NW2d 659 (1990). Here, it is undisputed that a fiduciary relationship exists. Hence, the trial court properly found that Stroh's claim for an accounting of all director fees received was not time-barred.

IV

Murdoch maintains that the trial court erred by refusing Murdoch's demand for a jury trial. He contends that he was entitled to a jury trial because Stroh sought money damages in its equitable action

for an accounting. However, Stroh was not seeking “damages.” Rather, Stroh was seeking a return of any director fees that it owned in excess of expenses incurred by Murdoch. Nonetheless, where a plaintiff seeks damages in addition to equitable relief such as an accounting, the question of damages may be decided without a jury. *ECCO, Ltd v Balimoy Mfg Co, Inc*, 179 Mich App 748, 751; 446 NW2d 546 (1989). Hence, it was not error for the trial court to strike Murdoch’s jury demand.

V

Murdoch argues that the trial court erred by allowing Stroh to recover director fees paid to Murdoch before the effective date of a 1981 employment agreement. Murdoch has failed to submit a copy of the 1981 employment agreement for this Court’s review, and no copy is contained within the lower court record. Nonetheless, paragraph 11, the paragraph on which Murdoch relies, allegedly provides in pertinent part:

Prior Agreements. This Agreement supersedes all prior agreements between us, whether oral or written, and all prior rights, obligations and liabilities of the parties to one another are mutually released and discharged in further consideration for the mutual agreements set forth herein.

This Court has already determined that Stroh was the owner of the director fees. Stroh’s entitlement to the fees was not a “right, obligation, or liability,” as those terms are used in the employment agreement. The employment agreement between Stroh and Murdoch had no impact on Stroh’s entitlement to property that it owned. Indeed, Murdoch submitted the 1981 fees and never claimed that he was released from his obligation to turn over these fees by the agreement.

VI

Murdoch asserts that the trial court erred by failing to offset business expenses approved by Stroh for the years 1990 and 1991. The argument made is vague and, in light of the record provided, is difficult to analyze. Apparently, the reports prepared by Stroh encompassed up to and including the year 1990. After the reports had been concluded in significant part, Murdoch submitted additional expenses for 1990 and 1991. Rather than revising the reports, Stroh indicated that it cut two checks to Murdoch that totaled nearly \$15,000. Murdoch claimed that he received checks totaling approximately \$11,000, but that the checks did not represent the 1990 and 1991 expenses. He asserts that he never received payment for \$29,067 in expenses, and that the trial court did not offset these expenses from the director fees. However, Murdoch’s argument is vague at best, and after a review of the record we are unable to determine with certainty the exact nature of the expenses allegedly submitted for 1990 and 1991. Stroh indicated that the expenses related primarily to the “Sterling Cash Book,” which documented petty cash expenses, and that the expenses were paid. Murdoch never presented any documentary evidence or testimony in support of the exact nature of the expenses, and admitted receiving two checks but claimed that the checks were for other expenses. In light of the vagueness of Murdoch’s evidence, we are unable to conclude that the trial court erred by failing to offset the expenses.

VII

Murdoch maintains that the circuit court erred by refusing to offset the Spanish marginal tax incurred by Murdoch as a result of his receipt of director fees. He asserts that Stroh acted in bad faith in refusing to offset the marginal tax incurred by Murdoch as evidenced by certificates from Price Waterhouse, an accounting firm that prepared Murdoch's Spanish tax returns. He claims that such certificates had been utilized in by Schlitz in the years of 1978-1980, and possibly 1981, and that Stroh's subsequent refusal to accept the certificates as proof of the marginal tax incurred was made in bad faith.

Abatemarco testified that he refused to accept the certificates as sole proof of the marginal tax incurred in the years 1982 - 1986 because his review of the certificates showed a marginal tax in excess of the highest tax bracket percentage in Spain. He testified that he requested Murdoch to provide his actual Spanish tax return to enable him to determine the amount of marginal tax to be offset, but that Murdoch never provided the returns. Therefore, Stroh refused to offset any amount for marginal tax. Under these circumstances, we cannot be concluded that Stroh acted in bad faith in rejecting this alleged expense.

VIII

Murdoch argues that the trial court erred by refusing to offset Murdoch's devaluation claim that resulted from the sale of his residence in Spain. Murdoch's employment agreement with Stroh included a provision that was intended to protect Murdoch's purchase of his Spanish residence from any devaluation of the Spanish peseta. The agreement apparently indicates that Murdoch "is to be compensated for the effect of the change in rate of exchange between the peseta and the U.S. dollar from the point in time when Murdoch purchased the apartment until the time of the sale." The sale occurred on April 17, 1985. Murdoch made a devaluation claim for \$30,480.56, which was promptly paid by Stroh.

In April 1991, Murdoch made another devaluation claim for \$146,000. Stroh denied the latter claim, finding that there was no devaluation. The trial court agreed and refused to offset the devaluation claim.

A review of the documents submitted reveals that Murdoch has misinterpreted the devaluation agreement.² Murdoch has presented no evidence that he suffered a loss (in excess of that for which he was compensated in 1985) as the result of devaluation of the peseta. Murdoch's calculations are based on variances in the exchange rate during the time he owned the property and are irrelevant to determining whether he suffered a loss as a result of the devaluation of the peseta. Therefore, the trial court properly refused to offset the devaluation claim.

IX

Next, Murdoch contends that the trial court erred by failing to give Murdoch full credit for the 1990 director fees that were returned to Stroh. However, Murdoch's claim that he received credit for only \$451,395.07 in 1990 director fees is not supported by the record.

Murdoch relies on "Exhibit 1" in support of his claim that he received credit for 57,805,653 pesetas, or \$451,395.07, instead of the \$602,866.894 that he returned to Stroh in 1990. However, a review of the record reveals that Stroh determined that Murdoch had received \$1,193.413 in director fees not including the 1990 fees of \$602,000 that Murdoch had returned to Stroh. Thus, Murdoch's reliance on Exhibit 1 in support of his argument that he did not receive full credit for the amount returned is misplaced.

X

Murdoch claims that Stroh's refusal to offset marginal tax loss was barred by the doctrines of laches or collateral estoppel. Murdoch has offered no authority in support of his argument and, therefore, this issue is not properly presented for appeal. *Goolsby v Detroit*, 419 Mich 651, 655 n 1; 358 NW2d 856 (1984), after remand 211 Mich App 214; 535 NW2d 568 (1995). This Court will not search for authority to sustain or reject a party's position.

XI

Last, Murdoch argues that the trial court abused its discretion by denying Murdoch's motion to adjourn trial. A motion for an adjournment must be based on good cause, and a court, in its discretion, may grant an adjournment to promote the cause of justice. MCR 2.503; *Zerillo v Dyksterhouse*, 191 Mich App 228, 230; 477 NW2d 117 (1991). A lower court's denial of a motion to adjourn should not be reversed absent an abuse of discretion. *In re Krueger Estate*, 176 Mich App 241, 247-248; 438 NW2d 898 (1989).

Trial was scheduled for Monday, May 13, 1996. On Friday, May 10, 1996, Murdoch sought an adjournment to allow him to recover from oral surgery that was performed on May 9, 1996. The trial court adjourned the trial until May 14, 1996. On May 14, Murdoch again moved for an adjournment, claiming that his May 9 surgery prevented him from flying. Murdoch presented a letter from an oral surgeon indicating that air travel after an extraction is contraindicated for a period of one week due to danger of post-operative bleeding and reaction to anaesthesia. Stroh objected to the adjournment. In doing so, it noted that two previous trial dates had been adjourned at Murdoch's request. One adjournment was made to permit Murdoch to take a vacation, and a second adjournment was made because the cost of the airline ticket was too expensive. Trial was then scheduled for May 13 at Murdoch's request. Stroh also noted that the next available trial date would not be until September, and at that time all of Stroh's management would be unavailable due to the closing of Stroh's acquisition of another brewing company.

The trial court denied the adjournment, finding that it had obliged Murdoch's requests in the past and could not continue to do indefinitely. Trial lasted three days, and on the third day Murdoch was present to testify. Murdoch has pointed to no prejudice as a result of the trial court's refusal to

adjourn the trial, and we are unable to discern from a review of the record any prejudice to Murdoch's case as a result of his absence during the first two days of trial.

Cross-Appeal

On cross-appeal, Stroh contends that the trial court erred by denying Stroh's motion for mediation sanctions on the ground that Stroh did not respond to Murdoch's offer of judgment.

In the prior action filed by Murdoch, mediation resulted in an award of \$750,000 in favor of Murdoch. Both parties rejected. The trial court granted Stroh's motion for partial summary disposition and dismissed without prejudice Stroh's remaining claims. The Court ordered that:

IT IS FURTHER ORDERED that Stroh's Motion for Leave to Amend its Counter-Complaint is GRANTED; provided, however, that by agreement of the parties, and for procedural ease and clarification only, the pending claims in this action shall be DISMISSED WITHOUT PREJUDICE; and simultaneously therewith, Stroh shall, within 14 days, file in this Court a Complaint in a new civil action against Plaintiff; the Complaint shall include those certain claims in relation to the office facility constructed on Plaintiff's property currently pending in Stroh's Counter-Complaint (which shall be treated for purposes of accrued interest due Stroh, if any, and any affirmative defense made by Plaintiff as if filed on July 8, 1984) and such other claims as Stroh may have against Plaintiff arising out of the relationship between the parties.

* * *

IT IS FURTHER ORDERED that by agreement of the parties, for purposes of any affirmative defenses made by Stroh, and for the accrual of interest due Plaintiff, if any, Plaintiff's remaining claims (\$156,444, \$152,006, and \$93,000) shall be treated in the new litigation as if filed on June 18, 1983.

The order also stated:

IT IS FURTHER ORDERED that this Order will in no way affect Stroh's right to claim mediation sanctions against Plaintiff as a result of the mediation held in this matter on July 27, 1994; that the parties' rights arising from the July 27, 1994, mediation shall be preserved in the new litigation; and that there will be no mediation in the new litigation.

Stroh filed the present action on January 26, 1995. On December 11, 1995, the trial court denied Stroh's motion for mediation sanctions pursuant to MCR 2.403 on the grounds that it was premature and that a final order had not yet been entered. On December 19, 1995, Murdoch made an offer to stipulate to judgment in the amount of \$200,000 in favor of Murdoch. Stroh never responded to Murdoch's offer. Trial was held in May 1996 and resulted in a final judgment in favor of Stroh in the

amount of \$156,090.06, inclusive of interest. Stroh again moved for mediation sanctions. The trial court denied the motion, concluding that Stroh was not entitled to sanctions because it failed to respond to Murdoch's offer off judgment.

At the time of the present action, MCR 2.405(E) stated:

In an action in which there has been both the rejection of a mediation award pursuant to MCR 2.403 and a rejection of an offer under this rule, the cost provisions of the rule under which the later rejection occurred control, except that if the same party would be entitled to costs under both rules costs may be recovered from the date of the earlier rejection.

Here, the later rejection was the rejection of the offer of judgment. Therefore, the cost provisions of MCR 2.405 control. *Luidens v 63rd District Court*, 219 Mich App 24, 29; 555 NW2d 709 (1996). MCR 2.405(D)(2) provides that "an offeree who has not made a counteroffer may not recover actual costs" It is undisputed that Stroh did not make a counteroffer. Hence, the trial court did not err by denying Stroh's request for actual costs.

Stroh contends that it was not required to make a counteroffer because the offer of judgment occurred in the "second action" and was unrelated to the "first action" during which the mediation occurred. However, the language of the January 12, 1995, order does not support Stroh's argument. The right to move for mediation sanctions was preserved in the first action because the "net" verdict could not be determined until Stroh's counter-claims were resolved. The order clearly stated that mediation would not occur in the second action. Rather than bifurcating Stroh's counterclaims for trial, for "procedural ease," the parties agreed that Stroh would file a new action to resolve its claims. The order preserved all claims and counterclaims of the parties as of the date each was filed in the first action. The order also provided that Stroh had no obligation to pay the sums it did not contest in the first action, nor did plaintiff have a final judgment as to these sums, "until such time as this Court resolves all matters raised in Defendant's new Complaint. . . ." The "second action" was effectively a continuation of the "first action."

Affirmed.

/s/ Michael J. Talbot
/s/ E. Thomas Fitzgerald
/s/ Robert P. Young, Jr.

¹ Stroh dismissed the claim of unjust enrichment.

² The agreement was intended to compensate Murdoch for any loss incurred as a result of the devaluation of the peseta. In other words, assume Murdoch paid 100,000 pesetas for the property and at the time of purchase the exchange rate was 1.3 pesetas to \$1. Murdoch would have paid \$76,923 for the property. If Murdoch sold the property for 100,000 pesetas at a time when the exchange rate

was 1.5 pesetas to \$1, he would have received \$66,666. The “devaluation” clause was designed to protect Murdoch from this “devaluation.” Hence, in this hypothetical, Stroh would pay Murdoch for the loss as a result of the devaluation (\$10,257).